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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DAVID TOURGEMAN,

Plaintiff,

vs.

COLLINS FINANCIAL SERVICES, INC., a
Texas corporation; NELSON & KENNARD, a
California partnership; DELL FINANCIAL
SERVICES, L.P., a Delaware limited
partnership; CIT FINANCIAL USA, INC., a
Delaware corporation; and DOES 1 through 10,
inclusive,

Defendants.

CASE NO.: 08-CV-1392-JLS(NLS)

**PLAINTIFF DAVID TOURGEMAN'S
SEPARATE STATEMENT OF
MATERIAL FACTS IN SUPPORT OF
HIS MOTION TO COMPEL FURTHER
RESPONSES TO REQUESTS FOR
PRODUCTION OF DOCUMENTS AND
INTERROGATORIES TO DEFENDANT
COLLINS FINANCIAL SERVICES, INC.**

Date: April 5, 2010
Time: 9:30 a.m.
Courtroom: 1101
Judge: Honorable Nita L. Stormes

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 1:

Please produce ALL COMMUNICATIONS between COLLINS and NELSON that RELATE TO Plaintiff David Tourgeman and the collection of his alleged debt. To the extent that these communications need to be redacted for privilege, please provide Plaintiff with a privilege log as described above.

RESPONSE TO DOCUMENT REQUEST NO. 1:

Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request to the extent that it seeks proprietary information, trade secret information, information subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that information without the consent of third parties and to the extent that it seeks information subject to the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving the forgoing objections or the General Objections, Defendant will produce all non-privileged documents in its possession, custody or control that relate to the Plaintiff, his account or the defenses asserted in this action.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 1:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant’s responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests

for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Id. at *4-5.

Collins objects to Request No. 1 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Collins fails to provide any explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Collins’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

Further, Federal Rule of Civil Procedure 26(b)(5) states that:

When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

- (i) expressly make the claim; and
- (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

“A privilege log should contain the following information: (1) the identity and position of its author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other reason it is being withheld.” *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*, 246 F.R.D. 614, 620 (C.D. Cal. 2007).

Here, Collins asserts the attorney-client privilege and attorney work product protection to Request No. 1. The objection is stated simply as “seek[ing] information subject to the attorney-client

1 privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client
2 privilege or work product doctrine is insufficient to enable the propounding party to assess the
3 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
4 Collins has failed to produce a privilege log containing any of the above-described information as
5 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
6 claims cannot be properly evaluated.

7 Accordingly, Tourgeman requests that this Court order Collins to provide a privilege log for
8 response to Request No. 1, provide a supplemental response to Request No. 1 without the stated
9 objections, provide a substantive response, and produce any documents improperly withheld from
10 production.

11 **REQUEST FOR PRODUCTION NO. 2:**

12 Please produce ALL training materials that RELATE TO debt collection YOU provide to
13 COLLINS employees.

14 **RESPONSE TO DOCUMENT REQUEST NO. 2:**

15 Subject to and without waiving the foregoing objections or the General Objections, Defendant
16 responds as follows:

17 Defendant is not a “debt collector” as defined by the FDCPA and it does not itself engage in the
18 collection of debts. It does not have employees that engage in debt collection, and therefore does not
19 train on collection and does not have responsive documents.

20 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 2:**

21 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
22 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
23 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Based on this information, Tourgeman
24 propounded document requests and special interrogatories on Collins. Collins cannot sue a debtor to
25 collect a debt and then contend that it is not a debt collector. Collins is taking inconsistent positions.

26 Based on recent discussions with Collins’s counsel, Tourgeman has learned that Collins’s
27 subsidiary, Paragon Way, collects debts on its behalf. While Tourgeman does not dispute that Paragon
28 Way is the entity tasked with collecting debts on Collins’s behalf, Collins cannot use its subsidiary to

1 shield itself from discovery. Case law directly refutes Collins's position. "The discovery rules require
2 that a corporation furnish such information as is available from the corporation itself or from sources
3 under its control. If the corporation can obtain the information from sources under its control, it may
4 not avoid answering by alleging ignorance." *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS
5 17190, *9 (C.D. Cal. 2005). Here, Paragon Way is a subsidiary directly under Collins's control and
6 thus Collins has no basis for withholding information related to Paragon Way.

7 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
8 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
9 and is Collins's subsidiary, this document request should have accounted for Paragon Way.
10 Additionally, Collins, as the principal corporation, has control and possession of Paragon Way's
11 documents. For instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to
12 produce certain documents from Paragon Way. Therefore, Collins's response that it is not a debt
13 collector is inadequate.

14 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
15 response to Request No. 2 and produce any documents improperly withheld from production.

16 **REQUEST FOR PRODUCTION NO. 3:**

17 Please produce ALL DOCUMENTS CONCERNING the duties and responsibilities of
18 COLLINS employees who receive, maintain, and send data regarding alleged debts.

19 **RESPONSE TO DOCUMENT REQUEST NO. 3:**

20 Defendant objects to this Request on the grounds that it is vague and ambiguous as phrased.
21 Defendant also objects to this Request on the grounds that, as Defendant understands it, the Request is
22 overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not
23 relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of
24 admissible evidence. By asking Defendant to produce "ALL DOCUMENTS CONCERNING the
25 duties and responsibilities of COLLINS employees who receive, maintain, and send data regarding
26 alleged debts," Plaintiff is potentially asking Defendant to produce an enormous amount of
27 documentation which will have no bearing on this dispute. Defendant further objects to this Request to
28 the extent that it seeks proprietary information, trade secret information, information subject to

1 protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that
2 information without the consent of third parties and to the extent that it seeks information subject to the
3 attorney-client privilege or the attorney work product doctrine.

4 Subject to and without waiving the forgoing objections or the General Objections, Defendant
5 responds that it is willing to meet and confer with Plaintiff in order to understand the Request and to
6 identify the scope of any potential production of documents.

7 **SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 3:**

8 Defendant objects to this Request on the grounds that it is vague and ambiguous as phrased.
9 Defendant also objects to this Request on the grounds that, as Defendant understands it, the Request is
10 overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not
11 relevant to the subject matter of this lawsuit, on or reasonably calculated to lead to the discovery of
12 admissible evidence. Plaintiff does not claim that his account data was altered by Collins because the
13 firm used inadequate procedures for “receiving” information relating to his debt. Rather, Plaintiff
14 alleges that he paid Dell in full for his computer before the account was ever sold to Collins. Any
15 information concerning his account was, according to Plaintiff’s theory, already inaccurate when it is
16 sold to Collins. The company’s procedures for receiving data from its sellers would not be relevant.

17 Subject to the forgoing objections, Defendant responds as follows: Collins does not “receive,
18 maintain or send data” relating to alleged debts so it has no responsive documents.

19 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 3:**

20 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
21 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
22 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
23 category, the part shall be specified and inspection permitted of the remaining parts. The party
24 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
25 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
26 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
27 defendant’s original responses contained imprecise, boilerplate objections:

28 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
and the Court are unable to determine, with certainty, the requests for

1 which Defendant is producing documents, the requests for which
2 Defendant is withholding documents and on what basis, and the requests
3 for which it has no responsive documents. Defendant cites boilerplate
4 general objections, and does not explain why the objection applies to the
5 response or whether documents were withheld pursuant to the stated
6 objections.

7 Collins objects to Request No. 3 on the basis that it is “overbroad, unduly burdensome and
8 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
9 the discovery of admissible evidence.” Collins fails to provide any meaningful explanation for its
10 objection that the request is overbroad, unduly burdensome and oppressive. *Keith H. v. Long Beach*
11 *Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the
12 burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and
13 supporting its objections.”). Moreover, because Collins’s response is so broad and unspecific, it is
14 impossible to tell whether documents are being withheld on the basis of the stated objections, and/or
15 whether responsive documents even exist.

16 Collins argues that this Request is not relevant because Tourgeman’s account was already
17 inaccurate when it was sold to Collins. This response improperly narrows the scope of the Request.
18 The Complaint, however, contains well-pleaded allegations that Collins engages in improper debt
19 collection practices. Indeed, the Complaint includes class allegations and a class comprised of:

20 All consumers residing in the United States and abroad who, during the
21 period within one year of the date of the filing of the complaint, were
22 contacted or sued in the United States by either Collins Financial or Nelson
23 & Kennard in an effort to collect an alleged debt.

24 Further, the Complaint alleges that Collins “is a debt collector” that “routinely attempts to
25 collect consumer debts without spending the requisite time to verify the debts and ensure the accuracy
26 of information pertaining to the alleged debts.” ¶33. The Complaint also alleges that Collins is not
27 “meaningfully engaged” in the collection of debts. ¶30. In other words, Collins’s debt collection
28 practices are being challenged. Thus, the duties and responsibilities of Collins’s employees who
receive, maintain, and send data regarding alleged debts demonstrates Collins’s debt collection
practices.

1 Collins also objects to Request No. 3 on the basis that the request is “vague and ambiguous.”
2 Collins has failed to exercise reason and common sense to attribute ordinary definitions to terms and
3 phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist.
4 LEXIS 31688 (N.D. Cal. 2007). Further, Collins has offered little to no meaningful facts to support the
5 stated objections. Thus, this boilerplate objection cannot be sustained.

6 Additionally, Collins claims that it does not “receive, maintain or send data” relating to alleged
7 debts so it has no responsive documents. This cannot be true. Because Collins is a firm that buys and
8 sells debt obligations, there must be someone within Collins who receives and sends information
9 regarding alleged debts. Collins appears to be hiding behind Paragon Way, even though Collins files
10 debt collection lawsuits in its own name.

11 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
12 Collins’s position. “The discovery rules require that a corporation furnish such information as is
13 available from the corporation itself or from sources under its control. If the corporation can obtain the
14 information from sources under its control, it may not avoid answering by alleging ignorance.”
15 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
16 Way is a subsidiary directly under Collins’s control and thus Collins has no basis for withholding
17 information related to Paragon Way.

18 Further, Tourgeman specifically defined Collins to include “anyone else acting on Collins
19 Financial Services, Inc.’s behalf.” Because Paragon Way was acting to collect debts on Collins’s behalf
20 and is Collins’s subsidiary, this document request should have accounted for Paragon Way. And,
21 Collins, as the principal corporation, has control and possession of Paragon Way’s documents. For
22 instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain
23 documents from Paragon Way. Therefore, Collins’s response that it is not a debt collector is
24 inadequate.

25 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
26 response to Request No. 3 without the stated objections, provide a substantive response, and produce
27 any documents improperly withheld from production.
28

1 **REQUEST FOR PRODUCTION NO. 4:**

2 Please produce ALL DOCUMENTS that RELATE TO YOUR policies and guidelines for
3 investigating alleged debts.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

5 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the phrase
6 "investigating alleged debts." Defendant also objects to this Request on the grounds that, based on
7 Defendant's understanding of its meaning, the Request is overbroad, unduly burdensome and
8 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
9 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. By asking
10 Defendant to produce "ALL DOCUMENTS that RELATE TO YOUR policies and guidelines for
11 investigating alleged debts," Plaintiff is potentially asking Defendant to produce an enormous amount
12 of documentation which will have no bearing on this dispute. Defendant further objects to this Request
13 to the extent that it seeks proprietary information, trade secret information, information subject to
14 protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that
15 information without the consent of third parties and to the extent that it seeks information subject to the
16 attorney-client privilege or the attorney work product doctrine.

17 Subject to and without waiving the forgoing objections or the General Objections, Defendant
18 responds that it is willing to meet and confer with Plaintiff in order to understand the Request and to
19 identify the scope of any potential production of documents.

20 **SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 4:**

21 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the phrase
22 "investigating alleged debts." Defendant also objects to this Request on the grounds that, based on
23 Defendant's understanding of its meaning, the Request is overbroad, unduly burdensome and
24 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
25 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further
26 objects to the extent that it seeks proprietary information, trade secret information, information subject
27 to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that
28

1 information without the consent of third parties and to the extent that it seeks information subject to the
2 attorney-client privilege or the attorney work product doctrine.

3 Subject to and without waiving the forgoing objections or the General Objections, Defendant
4 responds as follows: Assuming that Plaintiff seeks information related to the due diligence process
5 employed by Collins with respect to its purchase of debt portfolios, no such documents exist.

6 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 4:**

7 Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request
8 must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo,*
9 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or
10 category, the part shall be specified and inspection permitted of the remaining parts. The party
11 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
12 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”).
13 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
14 defendant’s original responses contained imprecise, boilerplate objections:

15 Defendant’s responses do not allow for meaningful evaluation. Plaintiff
16 and the Court are unable to determine, with certainty, the requests for
17 which Defendant is producing documents, the requests for which
18 Defendant is withholding documents and on what basis, and the requests
19 for which it has no responsive documents. Defendant cites boilerplate
20 general objections, and does not explain why the objection applies to the
21 response or whether documents were withheld pursuant to the stated
22 objections.

23 Collins objects to Request No. 4 on the basis that it is “overbroad, unduly burdensome and
24 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
25 the discovery of admissible evidence.” But Collins fails to provide any explanation for these
26 objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The
27 party who resists discovery has the burden to show discovery should not be allowed, and has the burden
28 of clarifying, explaining, and supporting its objections.”). Moreover, because Collins’s response is so
broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
stated objections, and/or whether responsive documents even exist.

Further, Federal Rule of Civil Procedure 26(b)(5) states that:

When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

- (iii) expressly make the claim; and
- (iv) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

A privilege log should contain the following information: (1) the identity and position of its author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was prepared or communicated; (7) the document's present location; and (8) the specific privilege or other reason it is being withheld. *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009). When asserting the attorney-client privilege, "[t]he party asserting the privilege bears the initial burden of demonstrating that the communication falls within the privilege." *Bible v. Rio Props., Inc.*, 246 F.R.D. 614, 620 (C.D. Cal. 2007).

Here, Collins asserts the attorney-client privilege and attorney work product protection to Request No. 4. The objection is stated simply as "seek[ing] information subject to the attorney-client privilege or the attorney work product doctrine." Such a blanket assertion of the attorney-client privilege or work product doctrine is insufficient to enable the propounding party to assess the applicability of the privilege or protection to the specific facts of the interrogatory in question. Further, Collins has failed to produce a privilege log containing any of the above-described information as required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege claims cannot be properly evaluated.

Collins objects to Request No. 4 on the basis that the term "investigating alleged debt" is vague and ambiguous. Collins, however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). Further, Collins has offered no meaningful facts to support the stated objections. Thus, this boilerplate objection cannot be sustained.

1 Collins also claims that no responsive documents exist. This is unlikely. Because Collins is a
2 firm that buys and sells debt obligations, there must be documents related to Collins's policies and
3 guidelines for investigating debts. Collins appears to be hiding behind its subsidiary, Paragon Way,
4 even though Collins files debt collection lawsuits against alleged debtors in its own name.

5 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
6 Collins's position. "The discovery rules require that a corporation furnish such information as is
7 available from the corporation itself or from sources under its control. If the corporation can obtain the
8 information from sources under its control, it may not avoid answering by alleging ignorance."
9 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
10 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
11 information related to Paragon Way.

12 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
13 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
14 and is Collins's subsidiary, this document request should have accounted for Paragon Way. And,
15 Collins, as the principal corporation, has control and possession of Paragon Way's documents. For
16 instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain
17 documents from Paragon Way. Since Collins's debt collection practices as a whole are being
18 challenged, documents related to Collins's or Paragon Way's policies and guidelines for investigating
19 alleged debt must be produced.

20 Accordingly, Tourgeman requests that this Court order Collins provide a supplemental response
21 to Request No. 4 without the stated objections, provide a substantive response, and produce any
22 documents improperly withheld from production.

23 **REQUEST FOR PRODUCTION NO. 5:**

24 Please produce ALL DOCUMENTS that RELATE TO YOUR policies and guidelines for filing
25 a lawsuit against an alleged debtor.
26
27
28

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

Subject to and without waiving the General Objections, Defendant does not file lawsuits. Law firms are retained to file suit on its behalf. Defendant does not maintain documents reflecting guidelines or policies for filing lawsuits.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 5:

Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period in the San Diego Superior Court alone. (Weaver Dec. ¶14). Here, Collins erroneously contends it does not file lawsuits.

Collins also claims that no responsive documents exist. This is unlikely. Because Collins is a firm that buys and sells debt obligations, there must be documents related to Collins's policies and guidelines for filing lawsuits against alleged debtors. Collins appears to be hiding behind its subsidiary, Paragon Way, even though it files collection lawsuits against alleged debtors in its own name.

But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes Collins's position. "The discovery rules require that a corporation furnish such information as is available from the corporation itself or from sources under its control. If the corporation can obtain the information from sources under its control, it may not avoid answering by alleging ignorance." *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding information related to Paragon Way.

Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf and is Collins's subsidiary, this document request should have accounted for Paragon Way. And, Collins, as the principal corporation, has control and possession of Paragon Way's documents. For instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from Paragon Way. Therefore, Collins's response that no such documents exist is insufficient.

1 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
2 response to Request No. 5 and produce any documents improperly withheld from production.

3 **REQUEST FOR PRODUCTION NO. 6:**

4 Please produce ALL DOCUMENTS that RELATE TO YOUR 1692g notices, including but not
5 limited to every sample collection letter YOU send to alleged debtors.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

7 Subject to and without waiving the General Objections, Defendant responds as follows: Collins
8 does not communicate with debtors regarding debts and therefore does not send notices to debtors
9 pursuant to section 1692g of the FDCPA.

10 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 6:**

11 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
12 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
13 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins now erroneously contends it “does
14 not communicate with debtors regarding debts and therefore does not send notices to debtors pursuant
15 to section 1692g of the FDCPA.” But because Collins is a firm that buys and sells debt obligations,
16 Collins or someone acting on its behalf must communicate with debtors. Collins appears to be hiding
17 behind its subsidiary, Paragon Way, even though it files collection lawsuits against alleged debtors in its
18 own name.

19 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
20 Collins’s position. “The discovery rules require that a corporation furnish such information as is
21 available from the corporation itself or from sources under its control. If the corporation can obtain the
22 information from sources under its control, it may not avoid answering by alleging ignorance.”
23 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
24 Way is a subsidiary directly under Collins’s control and thus Collins has no basis for withholding
25 information related to Paragon Way.

26 Further, Tourgeman specifically defined Collins to include “anyone else acting on Collins
27 Financial Services, Inc.’s behalf.” Because Paragon Way was acting to collect debts on Collins’s behalf
28 and is Collins’s subsidiary, this document request should have accounted for Paragon Way. And,

Collins, as the principal corporation, has control and possession of Paragon Way's documents. For instance, Collins agreed in its supplemental response to Interrogatory Nos. **13** and **20** to produce certain documents from Paragon Way. Therefore, Collins's response that no such documents exist is insufficient.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Request No. **6** and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 7:

Please produce ALL form letters, enclosures, envelopes, complaints, memoranda, etc., used by COLLINS in YOUR debt collection activity.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

Subject to and without waiving the General Objections, Defendant responds as follows: Collins does not communicate with debtors regarding debtors and therefore has no responsive documents.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 7:

Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period in the San Diego Superior Court alone. (Weaver Dec. ¶14). Based on this information, Tourgeman propounded document requests and special interrogatories on Collins. Collins now erroneously contends it "does not communicate with debtors regarding debts and therefore has no responsive documents." However, because Collins is a firm that buys and sells debt obligations, Collins or someone acting on its behalf must communicate with debtors. Collins appears to be hiding behind its subsidiary, Paragon Way, even though it files collection lawsuits against alleged debtors in its own name.

But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes Collins's position. "The discovery rules require that a corporation furnish such information as is available from the corporation itself or from sources under its control. If the corporation can obtain the information from sources under its control, it may not avoid answering by alleging ignorance." *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon

Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding information related to Paragon Way.

Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf and is Collins's subsidiary, this document request should have accounted for Paragon Way. And, Collins, as the principal corporation, has control and possession of Paragon Way's documents. For instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from Paragon Way. Therefore, Collins's response that no such documents exist is insufficient.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Request No. 7 and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 8:

Please produce ALL DOCUMENTS YOU relied upon to verify Plaintiff David Tourgeman's alleged debt.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term "verify." Subject to and without waiving the forgoing objections or the General Objections, Defendant will produce non-privileged documents in its possession, custody or control that relate to Plaintiff, his account and the defenses asserted in this action.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 8:

Collins objects to Request No. 8 on the basis that the term "verify" is "vague and ambiguous." Collins, however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). "Verify" is a common English word that should not preclude Collins from providing a substantive response. Further, Collins has offered no meaningful facts to support the stated objection. Thus, this boilerplate objection cannot be sustained.

1 This request seeks documents Collins relied upon in its determination that Tourgeman owed the
2 alleged debt in Case No. 37-2007-00072265-CL-CL-CTL. Collins has not made a good faith attempt to
3 provide a response despite the clear language of the request.

4 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
5 response to Request No. 8 without the stated objection, provide a substantive response, and produce any
6 documents improperly withheld from production.

7 **REQUEST FOR PRODUCTION NO. 9:**

8 Please produce ALL DOCUMENTS that RELATE TO COLLINS' collection practices and
9 procedures.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

11 Subject to and without waiving the General Objections, Defendant responds as follows: Collins
12 is not a debt collector and it does not engage in the collection of debts. It has no collection practices or
13 procedures and therefore has no documents to produce.

14 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 9:**

15 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
16 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
17 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Based on this information, Tourgeman
18 propounded document requests and special interrogatories on Collins. Collins erroneously contends
19 that it is not a debt collector. Collins appears to be hiding behind its subsidiary, Paragon Way, even
20 though it files collections lawsuits against alleged debtors in its own name.

21 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
22 Collins's position. "The discovery rules require that a corporation furnish such information as is
23 available from the corporation itself or from sources under its control. If the corporation can obtain the
24 information from sources under its control, it may not avoid answering by alleging ignorance."
25 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
26 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
27 information related to Paragon Way.

1 Further, Tourgeman specifically defined Collins to include “anyone else acting on Collins
2 Financial Services, Inc.’s behalf.” Because Paragon Way was acting to collect debts on Collins’s behalf
3 and is Collins’s subsidiary, this document request should have accounted for Paragon Way. And,
4 Collins, as the principal corporation, has control and possession of Paragon Way’s documents. For
5 instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain
6 documents from Paragon Way. Therefore, Collins’s response that no such documents exist is
7 insufficient.

8 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
9 response to Request No. 9 and produce any documents improperly withheld from production.

10 **REQUEST FOR PRODUCTION NO. 10:**

11 Please produce ALL DOCUMENTS that RELATE TO financial arrangements between YOU
12 and NELSON.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

14 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
15 “financial arrangements.” Subject to and without waiving the forgoing objection or the General
16 Objections, Defendant responds as follows: Collins does not have a financial arrangements with the
17 firm.

18 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 10:**

19 Collins objects to Request No. 10 on the basis that the term “financial arrangements” is “vague
20 and ambiguous.” Collins, however, has failed to exercise reason and common sense to attribute
21 ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v.*
22 *Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). “Financial arrangements” are
23 common English words that should not preclude Collins from providing a substantive response.
24 Further, Collins has offered no meaningful facts to support the stated objections. Thus, this boilerplate
25 objection cannot be sustained.

26 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
27 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
28 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit

1 against Tourgeman for an alleged debt. Collins must have provided compensation to Nelson for
2 services rendered. Collins erroneously contends that it does not have financial arrangements with
3 Nelson. Collins appears to be hiding behind its subsidiary, Paragon Way, even though Collins files
4 collection lawsuits against alleged debtors in its own name.

5 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
6 Collins's position. "The discovery rules require that a corporation furnish such information as is
7 available from the corporation itself or from sources under its control. If the corporation can obtain the
8 information from sources under its control, it may not avoid answering by alleging ignorance."
9 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
10 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
11 information related to Paragon Way.

12 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
13 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
14 and is Collins's subsidiary, this document request should have accounted for Paragon Way. And,
15 Collins, as the principal corporation, has control and access to Paragon Way's documents. For instance,
16 Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain
17 documents from Paragon Way. Therefore, Collins's response that no such documents exist is
18 insufficient.

19 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
20 response to Request No. 10 without the stated objections, provide a substantive response, and produce
21 any documents improperly withheld from production.

22 **REQUEST FOR PRODUCTION NO. 11:**

23 Please produce ALL DOCUMENTS that RELATE TO the financial arrangement between YOU
24 and Dell Financial Services, Inc. - including any of its past or present agents, employees,
25 representatives, attorneys, accountants, investigators, assigns, subsidiaries, or parent companies,
26 predecessors-in-interest, successors-in-interest, affiliates, or anyone else acting on Dell Financial
27 Services, Inc.'s behalf.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term “financial arrangements.” Defendant also objects to this Request on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request to the extent that it seeks proprietary information, trade secret information, information subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that information without the consent of third parties.

Subject to and without waiving the forgoing objections or the General Objections, Defendant responds that it is willing to meet and confer with Plaintiff in order to understand the Request and to identify the scope of any potential production of documents.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 11:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant’s responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the response or whether documents were withheld pursuant to the stated objections.

Collins objects to Request No. 11 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Collins fails to provide any explanation for these

1 objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The
2 party who resists discovery has the burden to show discovery should not be allowed, and has the burden
3 of clarifying, explaining, and supporting its objections.”). Moreover, because Collins’s response is so
4 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
5 stated objections, and/or whether responsive documents even exist.

6 Collins also objects to Request No. 11 on the basis that the term “financial arrangements” is
7 vague and ambiguous. Collins, however, has failed to exercise reason and common sense to attribute
8 ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v.*
9 *Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). “Financial arrangements” are
10 common English words that should not preclude Collins from providing a substantive response.
11 Further, Collins has offered little to no meaningful facts to support the stated objections. Thus, this
12 boilerplate objection cannot be sustained.

13 Lastly, Collins offers to meet and confer regarding this discovery request. The parties met and
14 conferred but reached an impasse – Collins refused to provide any documentation evidencing its
15 financial arrangements with Dell. (Weaver Dec. ¶18). Thus, Collins’s offer to meet and confer was an
16 empty offer because, from the outset, it had no intention of producing any of the requested documents.

17 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
18 response to Request No. 11 without the stated objections, provide a substantive response, and produce
19 any documents improperly withheld from production.

20 **REQUEST FOR PRODUCTION NO. 12:**

21 Please produce ALL DOCUMENTS pertaining to the number of alleged debtors that YOU filed
22 complaints against from July 31, 2007 to the present.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

24 Collins does not file complaints against debtors. Law firms are retained to file complaints
25 against debtors. Thus Collins does not have any documents that are responsive to this Request.

26 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 12:**

27 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
28 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period

1 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Based on this information, Tourgeman
2 propounded document requests and special interrogatories on Collins. Collins erroneously contends it
3 does not file lawsuits.

4 Collins also claims that no responsive documents exist. This is unlikely. Because Collins is a
5 firm that buys and sells debt obligations, there must be documents related to the number of alleged
6 debtors that Collins, or someone acting on Collins's behalf, filed lawsuits against. Collins appears to be
7 hiding behind its subsidiary, Paragon Way, even though it files collection lawsuits against alleged
8 debtors in its own name.

9 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
10 Collins's position. "The discovery rules require that a corporation furnish such information as is
11 available from the corporation itself or from sources under its control. If the corporation can obtain the
12 information from sources under its control, it may not avoid answering by alleging ignorance."
13 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
14 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
15 information related to Paragon Way.

16 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
17 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
18 and is Collins's subsidiary, this document request should have accounted for Paragon Way. And,
19 Collins, as the principal corporation, has control and access to Paragon Way's documents. For instance,
20 Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain
21 documents from Paragon Way. Thus, Collins's current response is inadequate.

22 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
23 response to Request No. 12 and produce any documents improperly withheld from production.

24 **REQUEST FOR PRODUCTION NO. 13:**

25 Please produce ALL DOCUMENTS pertaining to the number of alleged debtors that YOU
26 mailed letters to requesting payment of an alleged debt from July 31, 2007 to the present.

27 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

28 Collins does not mail letters to debtors. There are no responsive documents.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 13:

Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins is a firm that buys and sells debt obligations. Collins now erroneously contends it “does not mail letters to debtors.” Collins or someone acting on its behalf must communicate with debtors. Collins appears to be hiding behind its subsidiary, Paragon Way, even though it files collections lawsuits against alleged debtors in its own name.

But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes Collins’s position. “The discovery rules require that a corporation furnish such information as is available from the corporation itself or from sources under its control. If the corporation can obtain the information from sources under its control, it may not avoid answering by alleging ignorance.” *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon Way is a subsidiary directly under Collins’s control and thus Collins has no basis for withholding information related to Paragon Way.

Further, Tourgeman specifically defined Collins to include “anyone else acting on Collins Financial Services, Inc.’s behalf.” Because Paragon Way was acting to collect debts on Collins’s behalf and is Collins’s subsidiary, this document request should have accounted for Paragon Way. And, Collins, as the principal corporation, has control and access to Paragon Way’s documents. For instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from Paragon Way. Therefore, Collins’s response that no such documents exist is insufficient.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Request No. 13 and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 14:

Please produce ALL DOCUMENTS that RELATE TO YOUR investigation of Plaintiff David Tourgeman’s alleged debt.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term “investigation.” Subject to and without waiving the forgoing objection or the General Objections, Defendant will produce non-privileged documents in its possession, custody or control that relate to Plaintiff, his account or any of the defenses asserted in this action.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 14:

Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term “investigation.” Subject to and without waiving the forgoing objection or the General Objections, Defendant responds as follows: Assuming that Plaintiff seeks information related to the due diligence process with respect to its purchase of the Dell portfolio at issue, no such documents exist.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 14:

Collins objects to Request No. 14 on the basis that the term “investigation” is “vague and ambiguous.” Collins, however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). “Investigation” is a common English word that should not preclude Collins from providing a meaningful discovery response. Collins has not made a good faith attempt to provide a response despite the clear language of the request. Further, Collins has offered no meaningful facts to support the stated objections. Thus, this boilerplate objection cannot be sustained.

Collins also attempts to improperly limit the scope of this Request to the due diligence process it conducted when it purchased the Dell portfolio. This request, however, seeks all documents related to Collins’s investigation of Tourgeman’s alleged debt. Thus, Collins’s response is insufficient.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Request No. 14 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

1 **REQUEST FOR PRODUCTION NO. 15:**

2 Please produce ALL DOCUMENTS RELATING TO YOUR organization of COLLINS'
3 employees, including any subsidiaries or affiliates.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

5 Defendant objects to this Request on the grounds that it seeks information which is not relevant
6 to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible
7 evidence. Subject to and without waiving the forgoing objection or the General Objections, Collins will
8 produce organizational charts, if any exist, responsive to this Request.

9 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 15:**

10 Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request
11 must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo,*
12 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *4-5 (E.D. Cal. 2006) ("If objection is made to part of an item or
13 category, the part shall be specified and inspection permitted of the remaining parts. The party
14 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
15 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.").
16 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
17 defendant's original responses contained imprecise, boilerplate objections:

18 Defendant's responses do not allow for meaningful evaluation. Plaintiff
19 and the Court are unable to determine, with certainty, the requests for
20 which Defendant is producing documents, the requests for which
21 Defendant is withholding documents and on what basis, and the requests
22 for which it has no responsive documents. Defendant cites boilerplate
general objections, and does not explain why the objection applies to the
responses or whether documents were withheld pursuant to the stated
objections.

23 Collins objects to Request No. 15 on the basis that it is "not relevant to the subject matter of this
24 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence." But Collins fails to
25 provide any explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D.
26 652, 655-56 (C.D. Cal. 2005) ("The party who resists discovery has the burden to show discovery
27 should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.").
28 Moreover, because Collins's response is so broad and unspecific, it is impossible to tell whether

documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist. Collins's objection is especially offensive and frivolous given its repeated attempts to hide behind its affiliate Paragon Way as justification for not responding to Tourgeman's discovery requests.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Request No. 15 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 16:

Please produce ALL copies of each complaint in any litigation filed against COLLINS, if any, alleging violations of the Fair Debt Collection Practices Act and the Rosenthal Act.

RESPONSE TO REQUEST FOR PRODUCTION NO. 16:

Defendant objects to this Request on the grounds that is overbroad, unduly burdensome and oppressive, and seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Complaints filed by other debtors containing unsubstantiated allegations regarding other sets of facts has no bearing on the claims or defenses in this action. Defendant also objects to this Request on the grounds that the documents requested, if any exist, are a matter of public record, equally available to Plaintiff.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 16:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *4-5 (E.D. Cal. 2006) ("If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested."). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant's original responses contained imprecise, boilerplate objections:

Defendant's responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests

1 for which it has no responsive documents. Defendant cites boilerplate
2 general objections, and does not explain why the objection applies to the
3 responses or whether documents were withheld pursuant to the stated
4 objections.

5 Collins objects to Request No. 16 on the basis that it is “overbroad, unduly burdensome and
6 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
7 the discovery of admissible evidence.” But Collins fails to provide any meaningful explanation for
8 these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005)
9 (“The party who resists discovery has the burden to show discovery should not be allowed, and has the
10 burden of clarifying, explaining, and supporting its objections.”). Moreover, because Collins’s response
11 is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of
12 the stated objections, and/or whether responsive documents even exist.

13 Collins also objects that “complaints filed by other debtors containing unsubstantiated
14 allegations regarding other sets of facts has no bearing on the claims or defenses in this action.” Collins
15 is wrong. Indeed, the Complaint includes class allegations and a class comprised of:

16 All consumers residing in the United States and abroad who, during the
17 period within one year of the date of the filing of the complaint, were
18 contacted or sued in the United States by either Collins Financial or Nelson
19 & Kennard in an effort to collect an alleged debt.

20 Further, the Complaint alleges that Collins “is a debt collector” that “routinely attempts to
21 collect consumer debts without spending the requisite time to verify the debts and ensure the accuracy
22 of information pertaining to the alleged debts.” ¶33. The Complaint also alleges that Collins is not
23 “meaningfully engaged” in the collection of debts. ¶30. Complaints filed by other debtors against
24 Collins evidences Collins’s debt collection practices. Thus, this Request is relevant and reasonably
25 calculated to lead to the discovery of admissible evidence.

26 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
27 response to Request No. 16 without the stated objections, provide a substantive response, and produce
28 any documents improperly withheld from production.

1 **REQUEST FOR PRODUCTION NO. 19:**

2 Please produce ALL DOCUMENTS relating to the maintenance or change of procedures by
3 COLLINS adopted to avoid any violation of the Fair Debt Collection Practices Act and the Rosenthal
4 Act.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

6 Subject to and without waiving the General Objections, Collins does not seek to collect debts
7 from consumers. It has no documents that are responsive to this Request.

8 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 19:**

9 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
10 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
11 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Based on this information, Tourgeman
12 propounded document requests and special interrogatories on Collins. Collins erroneously contends
13 that it does not collect debts from consumers. Collins appears to be hiding behind its subsidiary,
14 Paragon Way, even though it files collections lawsuits against alleged debtors in its own name.

15 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
16 Collins's position. "The discovery rules require that a corporation furnish such information as is
17 available from the corporation itself or from sources under its control. If the corporation can obtain the
18 information from sources under its control, it may not avoid answering by alleging ignorance."
19 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
20 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
21 information related to Paragon Way.

22 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
23 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
24 and is Collins's subsidiary, this document request should have accounted for Paragon Way. And,
25 Collins, as the principal corporation, has control and possession of Paragon Way's documents. For
26 instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain
27 documents from Paragon Way. Therefore, Collins's response that no such documents exist is
28 insufficient.

1 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
2 response to Request No. 19 and produce any documents improperly withheld from production.

3 **REQUEST FOR PRODUCTION NO. 20:**

4 Please produce ALL DOCUMENTS RELATING TO insurance policies covering COLLINS for
5 civil law violations, including breach of contract, California's Unfair Competition Laws, the Federal
6 [sic] Debt Collection Practices Act and the Rosenthal Act.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

8 Collins has not tendered the defense of this action to any insurance carrier and thus has no
9 responsive documents.

10 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 20:**

11 Collins refuses to produce documents to Request No. 20, contending it "has not tendered the
12 defense of this action to any insurance carrier so there are no relevant responsive documents." But it is
13 immaterial whether Collins has tendered the defense of this action to any insurance carrier. The crux of
14 the Complaint is that Collins violated the Fair Debt Collection Practices Act and engages in unfair debt
15 collection practices. Documents that establish culpability or relate to indemnification for those
16 violations are relevant. If Collins maintains an insurance policy that covers these violations, this is
17 enough to render the documents relevant.

18 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
19 response to Request No. 20 and produce any documents improperly withheld from production.

20 **REQUEST FOR PRODUCTION NO. 21:**

21 Please produce ALL DOCUMENTS that RELATE TO an investigation of COLLINS by an
22 AGENCY for violations of California's Unfair Competition Laws, the Federal [sic] Debt Collection
23 Practices Act and the Rosenthal Act.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

25 Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term
26 "an investigation." Defendant also objects to this Request on the grounds that it seeks information
27 which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the
28 discovery of admissible evidence.

SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 21:

Defendant objects to this Request on the grounds that it is vague and ambiguous as to the term “an investigation.” Defendant also objects to this Request on the grounds that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the forgoing objection or the General Objections, Defendant responds as follows: Defendant has never been investigated by any agency for any alleged violation of the California Unfair Competition Law, the FDCPA or the Rosenthal Act. No responsive documents exist.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 21:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *4-5 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant’s responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the responses or whether documents were withheld pursuant to the stated objections.

Collins objects to Request No. 21 on the basis that it is “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Collins fails to provide any explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”).

Moreover, because Collins's response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist.

Collins also objects to Request No. 21 on the basis that the term "an investigation" is vague and ambiguous. Collins, however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). "Investigation" is a common English word that should not preclude Collins from providing a meaningful discovery response. Further, Collins has offered no meaningful facts to support the stated objection. Thus, this boilerplate objection cannot be sustained.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Request No. 21 without the stated objections, provide a substantive response, and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 22:

Please produce ALL DOCUMENTS that RELATE TO the retention agreements, including the retention agreements themselves (or other operative document describing the respective duties and obligations of client and attorney), if any, between COLLINS and NELSON.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

No responsive documents exist.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 22:

Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit against Tourgeman for an alleged debt. Collins must have a retention agreement with Nelson for legal services rendered. Collins erroneously contends that no responsive documents exist. Collins appears to be hiding behind its subsidiary, Paragon Way, even though Collins files collection lawsuits against alleged debtors in its own name.

But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes Collins's position. "The discovery rules require that a corporation furnish such information as is available from the corporation itself or from sources under its control. If the corporation can obtain the information from sources under its control, it may not avoid answering by alleging ignorance." *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding information related to Paragon Way.

Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf and is Collins's subsidiary, this document request should have accounted for Paragon Way. And, Collins, as the principal corporation, has control and access to Paragon Way's documents. For instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from Paragon Way. Therefore, Collins's response that no such documents exist is insufficient.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Request No. 22 and produce any documents improperly withheld from production.

REQUEST FOR PRODUCTION NO. 23:

Please produce ALL DOCUMENTS that RELATE TO COLLINS' phone calls, including but not limited to phone records and call logs, placed to David Tourgeman, Cesar Tourgeman, Rebecca Tourgeman or anyone else for the purposes of collecting David Tourgeman's alleged debt.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

No responsive documents exist.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 23:

Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit against Tourgeman for an alleged debt. Collins, or someone acting on its behalf, must have placed a call to David Tourgeman, Cesar Tourgeman, Rebecca Tourgeman or anyone else for the purpose of

1 collecting David Tourgeman's alleged debt. Collins erroneously contends that no such documents
2 exist. Collins appears to be hiding behind its subsidiary, Paragon Way, even though Collins files
3 collection lawsuits against alleged debtors in its own name.

4 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
5 Collins's position. "The discovery rules require that a corporation furnish such information as is
6 available from the corporation itself or from sources under its control. If the corporation can obtain the
7 information from sources under its control, it may not avoid answering by alleging ignorance."
8 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
9 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
10 information related to Paragon Way.

11 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
12 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
13 and is Collins's subsidiary, this document request should have accounted for Paragon Way. And,
14 Collins, as the principal corporation, has control and access to Paragon Way's documents. For instance,
15 Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain
16 documents from Paragon Way. Therefore, Collins's response that no such documents exist is
17 insufficient.

18 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
19 response to Request No. 23 and produce any documents improperly withheld from production.

20 **REQUEST FOR PRODUCTION NO. 24:**

21 Please produce ALL DOCUMENTS that RELATE TO COLLINS' policies and procedures for
22 settling alleged debts with debtors.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

24 No responsive documents exist.

25 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 24:**

26 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
27 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
28 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit

1 against Tourgeman for an alleged debt. Collins should have policies or procedures in place for settling
2 debts with debtors. Collins erroneously contends that no responsive documents exist. Collins appears
3 to be hiding behind its subsidiary, Paragon Way, even though Collins files collection lawsuits against
4 alleged debtors in its own name.

5 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
6 Collins's position. "The discovery rules require that a corporation furnish such information as is
7 available from the corporation itself or from sources under its control. If the corporation can obtain the
8 information from sources under its control, it may not avoid answering by alleging ignorance."
9 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
10 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
11 information related to Paragon Way.

12 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
13 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
14 and is Collins's subsidiary, this document request should have accounted for Paragon Way. And,
15 Collins, as the principal corporation, has control and access to Paragon Way's documents. For instance,
16 Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain
17 documents from Paragon Way. Therefore, Collins's response that no such documents exist is
18 insufficient.

19 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
20 response to Request No. 24 and produce any documents improperly withheld from production.

21 **REQUEST FOR PRODUCTION NO. 25:**

22 Please produce ALL DOCUMENTS that RELATE TO COLLINS' revenue for each calendar
23 year from 2005 to the present, including but not limited to financial summaries, period reports, tax
24 returns and financial statements.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

26 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
27 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
28

lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Request to the extent that it seeks confidential financial information.

REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 25:

Federal Rule of Civil Procedure 34(b)(2)(C) requires that “[a]n objection to part of a request must specify the part and permit inspection of the rest.”; *see also E. & J. Gallo Winery v. Cantine Rallo, S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *4-5 (E.D. Cal. 2006) (“If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.”). In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the defendant’s original responses contained imprecise, boilerplate objections:

Defendant’s responses do not allow for meaningful evaluation. Plaintiff and the Court are unable to determine, with certainty, the requests for which Defendant is producing documents, the requests for which Defendant is withholding documents and on what basis, and the requests for which it has no responsive documents. Defendant cites boilerplate general objections, and does not explain why the objection applies to the responses or whether documents were withheld pursuant to the stated objections.

Collins objects to Request No. 25 on the basis that it is “overbroad, unduly burdensome and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence.” But Collins fails to provide any explanation for these objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The party who resists discovery has the burden to show discovery should not be allowed, and has the burden of clarifying, explaining, and supporting its objections.”). Moreover, because Collins’s response is so broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the stated objections, and/or whether responsive documents even exist. And, Collins has not agreed to provide any responsive documents.

Documents related to Collins’s revenues establish how debt collection activities were pursued and how Collins was incentivized to pursue certain alleged debtors. Further, these documents are relevant for the purpose of establishing damages. To the extent Collins contends this request seeks

1 confidential information, Tourgeman has offered to sign a protective order. Collins ignored this offer.
2 (Weaver Dec. ¶19).

3 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
4 response to Request No. 25 without the stated objections, provide a substantive response, and produce
5 any documents improperly withheld from production.

6 **REQUEST FOR PRODUCTION NO. 26:**

7 Please produce ALL DOCUMENTS that RELATE TO COLLINS' processes for transmitting
8 account information of debtors to NELSON.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

10 Defendant objects on the grounds that the Request is vague and ambiguous. Subject to and
11 without waiving the forgoing objection or the General Objections, Defendant responds that no
12 responsive documents exist.

13 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 26:**

14 Collins objects to Request No. 26 on the basis that the request is vague and ambiguous. Collins,
15 however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and
16 phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist.
17 LEXIS 31688 (N.D. Cal. 2007). Despite the clear language of the request, Collins has not made a
18 good-faith effort to provide a response. Further, Collins has offered no meaningful facts to support the
19 stated objection. Thus, this boilerplate objection cannot be sustained.

20 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
21 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
22 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit
23 against Tourgeman for an alleged debt. During this process, Collins must have transmitted certain
24 account information regarding Tourgeman to Nelson so that Nelson could file the lawsuit against
25 Tourgeman. Thus, Collins should have documents showing how the account information is transmitted.
26 Collins erroneously contends that no responsive documents exist. Collins appears to be hiding behind
27 its subsidiary, Paragon Way, even though Collins files collection lawsuits against alleged debtors in its
28 own name.

1 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
2 Collins's position. "The discovery rules require that a corporation furnish such information as is
3 available from the corporation itself or from sources under its control. If the corporation can obtain the
4 information from sources under its control, it may not avoid answering by alleging ignorance."
5 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
6 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
7 information related to Paragon Way.

8 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
9 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
10 and is Collins's subsidiary, this document request should have accounted for Paragon Way. And,
11 Collins, as the principal corporation, has control and access to Paragon Way's documents. For instance,
12 Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain
13 documents from Paragon Way. Therefore, Collins's response that no such documents exist is
14 insufficient.

15 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
16 response to Request No. 26 without the stated objection, provide a substantive response, and produce
17 any documents improperly withheld from production.

18 **REQUEST FOR PRODUCTION NO. 27:**

19 Please produce ALL DOCUMENTS that RELATE TO the contractual relationship between
20 YOU and Dell Financial Services, Inc. - including any of its past or present agents, employees,
21 representatives, attorneys, accountants, investigators, assigns, subsidiaries, or parent companies,
22 predecessors-in-interest, successors-in-interest, affiliates, or anyone else acting on Dell Financial
23 Services, Inc.'s behalf.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

25 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
26 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
27 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant also
28 objects to this Request to the extent that it seeks proprietary information, trade secret information,

1 information subject to protective orders, confidentiality agreements, or statutory provisions that bar the
2 disclosure of that information without the consent of third parties.

3 Subject to and without waiving the forgoing objections or the General Objections, Defendant
4 will produce non-privileged documents in its possession, custody or control that relate to Plaintiff, his
5 account or any of the defenses asserted in this action.

6 **SUPPLEMENTAL RESPONSE TO DOCUMENT REQUEST NO. 27:**

7 Defendant objects to this Request on the grounds that it is overbroad, unduly burdensome and
8 oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this
9 lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant also
10 objects to this Request to the extent that it seeks proprietary information, trade secret information,
11 information subject to protective orders, confidentiality agreements, or statutory provisions that bar the
12 disclosure of that information without the consent of third parties.

13 Subject to and without waiving the forgoing objections or the General Objections, Defendant
14 has produced a copy of the purchase and sale agreement relating to Plaintiff's account.

15 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 27:**

16 Federal Rule of Civil Procedure 34(b)(2)(C) requires that "[a]n objection to part of a request
17 must specify the part and permit inspection of the rest."; *see also E. & J. Gallo Winery v. Cantine Rallo,*
18 *S.p.A.*, 2006 U.S. Dist. LEXIS 42069, *3-4 (E.D. Cal. 2006) ("If objection is made to part of an item or
19 category, the part shall be specified and inspection permitted of the remaining parts. The party
20 submitting the request may move for an order under Rule 37(a) with respect to any objection to or other
21 failure to respond to the request or any part thereof, or any failure to permit inspection as requested.").
22 In *E. & J. Gallo Winery*, the court ordered the defendant to provide supplemental responses because the
23 defendant's original responses contained imprecise, boilerplate objections:

24 Defendant's responses do not allow for meaningful evaluation. Plaintiff
25 and the Court are unable to determine, with certainty, the requests for
26 which Defendant is producing documents, the requests for which
27 Defendant is withholding documents and on what basis, and the requests
28 for which it has no responsive documents. Defendant cites boilerplate
general objections, and does not explain why the objection applies to the
response or whether documents were withheld pursuant to the stated
objections.

1 Collins objects to Request No. 27 on the basis that it is “overbroad, unduly burdensome and
2 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
3 the discovery of admissible evidence.” But Collins fails to provide any explanation for these
4 objections. *Keith H. v. Long Beach Unified Sch. Dist.*, 228 F.R.D. 652, 655-56 (C.D. Cal. 2005) (“The
5 party who resists discovery has the burden to show discovery should not be allowed, and has the burden
6 of clarifying, explaining, and supporting its objections.”). Moreover, because Collins’s response is so
7 broad and unspecific, it is impossible to tell whether documents are being withheld on the basis of the
8 stated objections, and/or whether responsive documents even exist.

9 Documents related to the contractual relationship between Collins and Dell reveals how debt
10 collection activities were conducted and how Collins was incentivized to pursue certain alleged debtors.
11 To the extent Collins contends this request seeks confidential information, Tourgeman has offered to
12 sign a protective order. Collins ignored this offer. (Weaver Dec. ¶19).

13 Now, Collins’s supplemental response offers to produce a copy of the purchase and sale
14 agreement relating to Tourgeman’s account. But this is inadequate and improperly restricts the scope of
15 the request. Indeed, the Complaint includes class allegations and a class comprised of:

16 All consumers residing in the United States and abroad who, during the
17 period within one year of the date of the filing of the complaint, were
18 contacted or sued in the United States by either Collins Financial or Nelson
& Kennard in an effort to collect an alleged debt.

19 Further, the Complaint alleges that Collins “is a debt collector” that “routinely attempts to
20 collect consumer debts without spending the requisite time to verify the debts and ensure the accuracy
21 of information pertaining to the alleged debts.” ¶33. The Complaint also alleges that Collins is not
22 “meaningfully engaged” in the collection of debts. ¶30. Collins’s contractual arrangement with Dell
23 evidences Collins’s debt collection practices. Since Collins’s debt collection practices are at issue, this
24 request is relevant and reasonably calculated to lead to the discovery of admissible evidence.

25 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
26 response to Request No. 27 without the stated objections, provide a substantive response, and produce
27 any documents improperly withheld from production.
28

1 **REQUEST FOR PRODUCTION NO. 28:**

2 Please produce ALL DOCUMENTS that RELATE TO COLLINS' contracts with skip-tracing
3 services and other data providers YOU use to find current information for any alleged debtor.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

5 No responsive documents exist.

6 **REASONS TO COMPEL RESPONSE TO DOCUMENT REQUEST NO. 28:**

7 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
8 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
9 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit
10 against Tourgeman for an alleged debt. Collins also retains Nelson to bring suits against other alleged
11 debtors. Collins and Nelson use skip-tracing services to locate these debtors. Thus, Collins should
12 have documents related to its contracts with those services and data providers. Collins erroneously
13 contends that no responsive documents exist. Collins appears to be hiding behind its subsidiary,
14 Paragon Way, even though Collins files collection lawsuits against alleged debtors in its own name.

15 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
16 Collins's position. "The discovery rules require that a corporation furnish such information as is
17 available from the corporation itself or from sources under its control. If the corporation can obtain the
18 information from sources under its control, it may not avoid answering by alleging ignorance."
19 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
20 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
21 information related to Paragon Way.

22 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
23 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
24 and is Collins's subsidiary, this document request should have accounted for Paragon Way. And,
25 Collins, as the principal corporation, has control and access to Paragon Way's documents. For instance,
26 Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain
27 documents from Paragon Way. Therefore, Collins's response that no such documents exist is
28 insufficient.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Request No. 28 and produce any documents improperly withheld from production.

SPECIAL INTERROGATORIES

SPECIAL INTERROGATORY NO. 1:

Please identify the number of persons and entities in the United States who you contacted for the purposes of debt collection from July 31, 2007 to the present. (As used throughout these interrogatories, "COLLINS" or "Collins Financial" means Defendant Collins Financial Services, Inc. and any of its past or present agents, employees, representatives, attorneys, accountants, investigators, assigns, predecessors-in-interest, successors-in-interest, or anyone else acting on Collins Financial Services, Inc.'s behalf.)

RESPONSE TO SPECIAL INTERROGATORY NO. 1:

Zero.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 1:

Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit against Tourgeman for an alleged debt. Collins also retains Nelson to bring suits against other alleged debtors. Collins erroneously contends that it contacted zero persons and entities to collect debt from July 31, 2007 to the present. This cannot be. Collins appears to be hiding behind its subsidiary, Paragon Way, even though Collins files collection lawsuits against alleged debtors in its own name.

But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes Collins's position. "The discovery rules require that a corporation furnish such information as is available from the corporation itself or from sources under its control. If the corporation can obtain the information from sources under its control, it may not avoid answering by alleging ignorance." *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding information related to Paragon Way.

Further, Tourgeman specifically defined Collins to include “anyone else acting on Collins Financial Services, Inc.’s behalf.” Because Paragon Way was acting to collect debts on Collins’s behalf and is Collins’s subsidiary, this interrogatory should have accounted for Paragon Way. And, Collins, as the principal corporation, has control and access to Paragon Way’s documents. For instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from Paragon Way. Therefore, Collins’s response that it contacted zero person and entities is insufficient.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Interrogatory No. 1.

SPECIAL INTERROGATORY NO. 3:

Please state the form of COLLINS’ organization, including all subsidiaries and affiliates, and the date and place the organization was organized and registered and/or licensed to do business.

RESPONSE TO SPECIAL INTERROGATORY NO. 3:

Subject to and without waiving the General Objections, Defendant responds as follows: Collins Financial Services, Inc. is a Texas corporation incorporated in 1996. It is licensed to do business in appropriate jurisdictions.

SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 3:

Subject to and without waiving the General Objections, Defendant responds as follows: Defendant is a Texas corporation incorporated in 1996. Pursuant to Federal Rule of Civil Procedure 33(d), Defendant will produce its 2009 Compliance Report which indicates its various business licenses.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 3:

Collins’s supplemental response fails to account for any subsidiaries and affiliates. After several meet and confer discussions, Collins’s counsel informed Tourgeman that Paragon Way, Collins’s subsidiary, collects debts on Collins’s behalf. (Weaver Dec. ¶15). Collins, however, fails to mention Paragon Way in its original response or supplemental response. Therefore, Collins has not fully answered this interrogatory. And, an “evasive or incomplete disclosure, answer, or response” is equivalent to “a failure to disclose, answer, or respond.” Fed. R. Civ. P. 37(a)(3).

SPECIAL INTERROGATORY NO. 4:

Please describe COLLINS' procedures and policies for receiving debt related information from the entity COLLINS purchases debt from.

RESPONSE TO SPECIAL INTERROGATORY NO. 4:

Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the terms "receiving debt related information." Defendant also objects to this Interrogatory on the grounds that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this Interrogatory to the extent that it seeks proprietary information, trade secret information, information subject to protective orders, confidentiality agreements, or statutory provisions that bar the disclosure of that information without the consent of third parties and to the extent that it seeks information subject to the attorney-client privilege or the attorney work product doctrine.

Subject to and without waiving the forgoing objections or the General Objections, based upon its understanding of this Interrogatory, Defendant hereby exercises its option to produce business records that are responsive, pursuant to Rule 33(d) of the Federal Rules of Civil Procedure. Defendant is willing to meet and confer with Plaintiff regarding any further response.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 4:

Federal Rule of Civil Procedure 33 governs the use of Interrogatories during discovery. Rule 33(b)(3) requires that "[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath." Further, all grounds for objection to an interrogatory must be stated "with specificity." Fed. R. Civ. P. 33(b)(4). Collins has not provided any substantive response to this interrogatory.

Collins objects to Interrogatory No. 4 on the basis that it is "overbroad, unduly burdensome and oppressive" and "not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the discovery of admissible evidence." But Collins fails to provide any explanation for these objections. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery are "required to carry a heavy burden of showing" why discovery should be denied).

Collins also objects to Interrogatory No. 4 on the basis that the term “receiving debt related information” is vague and ambiguous. Collins, however, has failed to exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). This interrogatory utilizes common English words that should not preclude Collins from providing a substantive response. And, Collins has offered no meaningful facts to support the stated objection. Thus, this boilerplate objection cannot be sustained.

Federal Rule of Civil Procedure 26(b)(5) further provides:

When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

- (v) expressly make the claim; and
- (vi) describe the nature of the documents, communications, or tangible things not produced or disclosed--and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

A privilege log should contain the following information: (1) the identity and position of its author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was prepared or communicated; (7) the document’s present location; and (8) the specific privilege or other reason it is being withheld. *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009). When asserting the attorney-client privilege, “[t]he party asserting the privilege bears the initial burden of demonstrating that the communication falls within the privilege.” *Bible v. Rio Props., Inc.*, 246 F.R.D. 614, 620 (C.D. Cal. 2007).

Here, Collins asserts the attorney-client privilege and attorney work product protection to Interrogatory No. 4. The objection is stated simply as “seek[ing] information subject to the attorney-client privilege or the attorney work product doctrine.” Such a blanket assertion of the attorney-client privilege or work product doctrine is insufficient to enable the propounding party to assess the applicability of the privilege or protection to the specific facts of the interrogatory in question. Further, Collins has failed to produce a privilege log containing any of the above-described information as

1 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). As a practical matter, it is
2 hard to conceive how there could be an attorney client relationship with entities from which Collins
3 purchases debts. Consequently, the privilege claims cannot be properly evaluated, nor is there any basis
4 for asserting a privilege claim.

5 While Collins agrees to produce records in response to Interrogatory No. 4 pursuant to Rule
6 33(d), Collins fails to specify which records. If the served party chooses to respond to an interrogatory
7 by producing business records, the served party must specify, in detail, the records from which the
8 answer may be derived or ascertained and afford the party serving the interrogatory reasonable
9 opportunity to examine, audit, or inspect the record. *See* Fed. R. Civ. P. 33(d); *Mancini v. Ins. Corp.*,
10 2009 U.S. Dist. LEXIS 51321 (S.D. Cal. 2009).

11 As the authorities above reflect, the citation to and production of records as an alternate means
12 for responding to Interrogatories is proper so long as the documents produced are the party's "business
13 records" and the description of the records produced in lieu of a response is sufficiently detailed to
14 enable the propounding party to locate them. Here, Collins's citation to and alleged agreement to
15 produce documents does not satisfy these two requirements. The response is insufficient for two
16 reasons. First, it does not direct Tourgeman to any "business records." Second, even assuming these
17 documents are business records, this response lacks the required specificity. Collins must at least
18 provide the titles of the documents or Bates numbers of the documents responsive to this Request.

19 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
20 response to Interrogatory No. 4 without the stated objections and provide a substantive response.

21 **SPECIAL INTERROGATORY NO. 5:**

22 Please describe COLLINS' procedures and policies for verifying debt related information from
23 the entity COLLINS purchases debt from.

24 **RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

25 Defendant objects to this Interrogatory on the grounds that it is vague and ambiguous as to the
26 terms "verifying debt related information." Defendant also objects to this Interrogatory on the grounds
27 that it is overbroad, unduly burdensome and oppressive, and to the extent that it seeks information
28 which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to the

1 discovery of admissible evidence. Defendant further objects to this Interrogatory to the extent that it
 2 seeks proprietary information, trade secret information, information subject to protective orders,
 3 confidentiality agreements, or statutory provisions that bar the disclosure of that information without the
 4 consent of third parties and to the extent that it seeks information subject to the attorney-client privilege
 5 or the attorney work product doctrine.

6 Subject to and without waiving the forgoing objections or the General Objections, based upon
 7 its understanding of this Interrogatory, Defendant hereby exercises its option to produce business
 8 records that are responsive, pursuant to Rule 33(d) of the Federal Rules of Civil Procedure. Defendant
 9 is willing to meet and confer with Plaintiff regarding any further response.

10 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

11 Federal Rule of Civil Procedure 33 governs the use of Interrogatories during discovery. Rule
 12 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 13 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 14 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4). Collins has not provided any substantive
 15 response to this Interrogatory.

16 Collins objects to Interrogatory No. 5 on the basis that it is “overbroad, unduly burdensome and
 17 oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead to
 18 the discovery of admissible evidence.” But Collins fails to provide any explanation for these
 19 objections. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing discovery
 20 are “required to carry a heavy burden of showing” why discovery should be denied).

21 Collins also objects to Interrogatory No. 5 on the basis that the term “verifying debt related
 22 information” is vague and ambiguous. Collins, however, has failed to exercise reason and common
 23 sense to attribute ordinary definitions to terms and phrases utilized in discovery. *Santana Row Hotel*
 24 *Partners, L.P. v. Zurich Am. Ins. Co.*, 2007 U.S. Dist. LEXIS 31688 (N.D. Cal. 2007). This
 25 interrogatory features common English words that should not preclude Collins from providing a
 26 substantive response. And, Collins has offered no meaningful facts to support the stated objection.
 27 Thus, this boilerplate objection cannot be sustained.

1 Federal Rule of Civil Procedure 26(b)(5) further provides:

2 When a party withholds information otherwise discoverable by claiming
3 that the information is privileged or subject to protection as trial-
preparation material, the party must:

4 (vii) expressly make the claim; and

5 (viii) describe the nature of the documents, communications, or tangible things
6 not produced or disclosed--and do so in a manner that, without revealing
information itself privileged or protected, will enable other parties to
7 assess the claim.

8 A privilege log should contain the following information: (1) the identity and position of its
9 author; (2) the identity and position of the recipient(s); (3) the date it was prepared or written; (4) the
10 title and description of the document; (5) the subject matter addressed; (6) the purposes for which it was
11 prepared or communicated; (7) the document's present location; and (8) the specific privilege or other
12 reason it is being withheld. *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321, *10 (S.D. Cal. 2009).
13 When asserting the attorney-client privilege, "[t]he party asserting the privilege bears the initial burden
14 of demonstrating that the communication falls within the privilege." *Bible v. Rio Props., Inc.*, 246
15 F.R.D. 614, 620 (C.D. Cal. 2007).

16 Here, Collins asserts the attorney-client privilege and attorney work product protection to
17 Interrogatory No. 5. The objection is stated simply as "seek[ing] information subject to the attorney-
18 client privilege or the attorney work product doctrine." Such a blanket assertion of the attorney-client
19 privilege or work product doctrine is insufficient to enable the propounding party to assess the
20 applicability of the privilege or protection to the specific facts of the interrogatory in question. Further,
21 Collins has failed to produce a privilege log containing any of the above-described information as
22 required by Federal Rule of Civil Procedure 26(b)(5). (Weaver Dec. ¶13). Consequently, the privilege
23 claims cannot be properly evaluated.

24 While Collins agrees to produce records in response to Interrogatory No. 5 pursuant to Rule
25 33(d), Collins fails to specify which records. If the served party chooses to respond to an interrogatory
26 by producing business records, the served party must specify, in detail, the records from which the
27 answer may be derived or ascertained and afford the party serving the interrogatory reasonable
28

1 opportunity to examine, audit, or inspect the record. *See* Fed. R. Civ. P. 33(d); *Mancini v. Ins. Corp.*,
2 2009 U.S. Dist. LEXIS 51321 (S.D. Cal. 2009).

3 As the authorities above reflect, the citation to and production of records as an alternate means
4 for responding to interrogatories is proper so long as the documents produced are the party's "business
5 records" and the description of the records produced in lieu of a response is sufficiently detailed to
6 enable the propounding party to locate them. Here, Collins's citation to and alleged agreement to
7 produce documents does not satisfy these two requirements. The response is insufficient for two
8 reasons. First, it does not direct Tourgeman to any "business records." Second, even assuming these
9 documents are business records, this response lacks the required specificity. Collins must at least
10 provide the titles of the documents or Bates numbers of the documents responsive to this Request.

11 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
12 response to Interrogatory No. 5 without the stated objections and provide a substantive response.

13 **SPECIAL INTERROGATORY NO. 6:**

14 Please describe COLLINS' procedures and policies for investigating the addresses of alleged
15 debtors prior to attempting contact.

16 **RESPONSE TO SPECIAL INTERROGATORY NO. 6:**

17 Collins does not attempt to contact debtors and therefore does not have any policies or
18 procedures that are responsive to this Interrogatory.

19 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 6:**

20 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
21 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
22 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit
23 against Tourgeman for an alleged debt. Collins also retains Nelson to bring suits against other alleged
24 debtors. Further, Collins is an entity that specializes in buying debt obligations. Collins erroneously
25 contends that it does not attempt to contact debtors. This cannot be. Collins appears to be hiding
26 behind its subsidiary, Paragon Way, even though Collins files collection lawsuits against alleged
27 debtors in its own name.

1 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
 2 Collins's position. "The discovery rules require that a corporation furnish such information as is
 3 available from the corporation itself or from sources under its control. If the corporation can obtain the
 4 information from sources under its control, it may not avoid answering by alleging ignorance."
 5 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
 6 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
 7 information related to Paragon Way.

8 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
 9 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
 10 and is Collins's subsidiary, this interrogatory should have accounted for Paragon Way. And, Collins, as
 11 the principal corporation, has control and access to Paragon Way's documents. For instance, Collins
 12 agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from
 13 Paragon Way. Therefore, Collins's response that it does not attempt to contact debtors is insufficient.

14 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
 15 response to Interrogatory No. 6.

16 **SPECIAL INTERROGATORY NO. 7:**

17 Please describe COLLINS' procedures and policies for determining the debt amount COLLINS
 18 demands from alleged debtors, including but not limited to, the method of calculating principal owed,
 19 interest assessed and penalties applied.

20 **RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

21 Collins does not make demands of debtors and therefore has no procedures or policies that are
 22 responsive to this Interrogatory.

23 **SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 7:**

24 Subject to the General Objections, Defendant responds as follows: Assuming that Plaintiff
 25 seeks information related to the origin of the amount of the demand made in the collection complaint
 26 filed against Plaintiff on behalf of Collins, the amount of the debt was obtained from the data
 27 transferred to Defendant by the original creditor. Defendant did not "calculate" the principal amount
 28 due, nor did it assess interest or penalties. Defendant relied upon Nelson & Kennard to seek the

appropriate amount of statutory interest on the Plaintiff's account from the date of charged off, April 19, 2004.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 7:

Collins attempts to limit the interrogatory to the demand made in the collection complaint filed against Tourgeman. This response improperly narrows the scope of the request and misconstrues the allegations in the Complaint. The Complaint contains well-pleaded allegations that Collins engages in improper debt collection practices. Indeed, the Complaint includes class allegations and a class comprised of:

All consumers residing in the United States and abroad who, during the period within one year of the date of the filing of the complaint, were contacted or sued in the United States by either Collins Financial or Nelson & Kennard in an effort to collect an alleged debt.

Further, the Complaint alleges that Collins "is a debt collector" that "routinely attempts to collect consumer debts without spending the requisite time to verify the debts and ensure the accuracy of information pertaining to the alleged debts." ¶33. The Complaint also alleges that Collins is not "meaningfully engaged" in the collection of debts. ¶30. In other words, Collins's debt collection activities as a whole are at issue. Thus, Collins's procedures and policies for determining the debt amount Collins demands from alleged debtors is relevant and reveals an aspect of Collins's debt collection practices.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Interrogatory No. 7.

SPECIAL INTERROGATORY NO. 8:

Please describe COLLINS' procedures and policies for settling outstanding alleged debts from alleged debtors.

RESPONSE TO SPECIAL INTERROGATORY NO. 8:

Collins does not settle debts with debtors and therefore has no responsive policies or procedures.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 8:

Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period

1 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins erroneously contends that it does
 2 not settle debts with debtors. This assertion cannot be true. Collins appears to be hiding behind its
 3 subsidiary, Paragon Way, even though Collins files collection lawsuits against alleged debtors in its
 4 own name.

5 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
 6 Collins's position. "The discovery rules require that a corporation furnish such information as is
 7 available from the corporation itself or from sources under its control. If the corporation can obtain the
 8 information from sources under its control, it may not avoid answering by alleging ignorance."
 9 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
 10 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
 11 information related to Paragon Way.

12 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
 13 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
 14 and is Collins's subsidiary, this interrogatory should have accounted for Paragon Way. And, Collins, as
 15 the principal corporation, has control and access to Paragon Way's documents. For instance, Collins
 16 agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from
 17 Paragon Way. Therefore, Collins's response that it does not settle debts with debtors is insufficient.

18 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
 19 response to Interrogatory No. 8.

20 **SPECIAL INTERROGATORY NO. 9:**

21 Please identify all law firms that COLLINS retained - from July 31, 2006 to the present - for the
 22 purposes of collecting debts.

23 **RESPONSE TO SPECIAL INTERROGATORY NO. 9:**

24 Collins does not retain law firms.

25 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 9:**

26 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
 27 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
 28 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit

1 against Tourgeman for an alleged debt. Collins also retains Nelson to bring suits against other alleged
2 debtors. Collins erroneously contends that it does not retain law firms. This is not true. Collins
3 appears to be hiding behind its subsidiary, Paragon Way, even though Collins files collection lawsuits
4 against alleged debtors in its own name.

5 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
6 Collins's position. "The discovery rules require that a corporation furnish such information as is
7 available from the corporation itself or from sources under its control. If the corporation can obtain the
8 information from sources under its control, it may not avoid answering by alleging ignorance."
9 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
10 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
11 information related to Paragon Way.

12 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
13 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
14 and is Collins's subsidiary, this interrogatory should have accounted for Paragon Way. And, Collins, as
15 the principal corporation, has control and access to Paragon Way's documents. For instance, Collins
16 agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from
17 Paragon Way. Therefore, Collins's response that it does not retain law firms is insufficient.

18 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
19 response to Interrogatory No. 9.

20 **SPECIAL INTERROGATORY NO. 10:**

21 Please identify all lawsuits for breach of contract, Rule 3.740 collections cases, violations of the
22 FDCPA and violations of the Rosenthal Act –by caption, court, civil action number, and result - that
23 COLLINS is or has been a party to since July 31, 2006.

24 **RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

25 Defendant objects to this Request on the grounds that it is compound. Defendant also objects to
26 this Interrogatory on the grounds that it is overbroad, unduly burdensome and oppressive, and seeks
27 information which is not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead
28 to the discovery of admissible evidence. Complaints which include unsubstantiated allegations made by

1 other debtors regarding other sets of facts have no bearing on the claims or defenses in this action.
 2 Defendant also objects to this Interrogatory on the grounds that the information requested, if any exists,
 3 is a matter of public record, equally available to Plaintiff.

4 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 10:**

5 Federal Rule of Civil Procedure 33 governs the use of Interrogatories during discovery. Rule
 6 33(b)(3) requires that “[e]ach interrogatory must, to the extent it is not objected to, be answered
 7 separately and fully in writing under oath.” Further, all grounds for objection to an interrogatory must
 8 be stated “with specificity.” Fed. R. Civ. P. 33(b)(4). Collins has not provided any substantive
 9 response to this interrogatory.

10 Collins objects to Interrogatory No. 10 on the basis that it is “overbroad, unduly burdensome
 11 and oppressive” and “not relevant to the subject matter of this lawsuit, nor reasonably calculated to lead
 12 to the discovery of admissible evidence.” But Collins fails to provide any meaningful explanation for
 13 these objections. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429 (9th Cir. 1975) (those opposing
 14 discovery are “required to carry a heavy burden of showing” why discovery should be denied).

15 Collins also erroneously argues that “unsubstantiated allegations made by other debtors
 16 regarding other sets of facts have no bearing on the claims or defenses in this action.” This response
 17 misconstrues the Complaint. The Complaint contains well-pleaded allegations that Collins engages in
 18 improper debt collection practices. Indeed, the Complaint includes class allegations and a class
 19 comprised of:

20 All consumers residing in the United States and abroad who, during the
 21 period within one year of the date of the filing of the complaint, were
 22 contacted or sued in the United States by either Collins Financial or Nelson
 & Kennard in an effort to collect an alleged debt.

23 Further, the Complaint alleges that Collins “is a debt collector” that “routinely attempts to
 24 collect consumer debts without spending the requisite time to verify the debts and ensure the accuracy
 25 of information pertaining to the alleged debts.” ¶33. The Complaint also alleges that Collins is not
 26 “meaningfully engaged” in the collection of debts. ¶30. In other words, Collins’s debt collection
 27 activities as a whole are at issue. Thus, other lawsuits against Collins, especially for violations of the
 28

1 FDCPA and the Rosenthal Act, show whether Collins engages in a pattern of improperly filing lawsuits
2 against alleged debtors and are relevant for establishing a class certification.

3 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
4 response to Interrogatory No. 10 without the stated objections and provide a substantive response.

5 **SPECIAL INTERROGATORY NO. 12:**

6 Please describe the compensation agreements between COLLINS and any law firm COLLINS
7 uses to file complaints against alleged debtors for breach of contract.

8 **RESPONSE TO SPECIAL INTERROGATORY NO. 12:**

9 Collins does not have compensation agreements with law firms.

10 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 12:**

11 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
12 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
13 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit
14 against Tourgeman for an alleged debt. Collins also retains Nelson to bring suits against other alleged
15 debtors. Collins erroneously contends that it does not have compensation agreements with law firms.
16 This cannot be. Collins appears to be hiding behind its subsidiary, Paragon Way, even though Collins
17 files collection lawsuits against alleged debtors in its own name.

18 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
19 Collins's position. "The discovery rules require that a corporation furnish such information as is
20 available from the corporation itself or from sources under its control. If the corporation can obtain the
21 information from sources under its control, it may not avoid answering by alleging ignorance."
22 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
23 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
24 information related to Paragon Way.

25 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
26 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
27 and is Collins's subsidiary, this interrogatory should have accounted for Paragon Way. And, Collins, as
28 the principal corporation, has control and access to Paragon Way's documents. For instance, Collins

1 agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from
2 Paragon Way. Therefore, Collins's response that it does not have compensation agreements with law
3 firms is insufficient.

4 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
5 response to Interrogatory No. 12.

6 **SPECIAL INTERROGATORY NO. 14:**

7 Please identify the documents COLLINS relied upon to confirm the amount of David
8 Tourgeman's debt.

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 14:**

10 Subject to and without waiving the forgoing objections or the General Objections, pursuant to
11 Federal Rule of Civil Procedure 33(d), Defendant will produce non-privileged, responsive documents in
12 its possession, custody or control.

13 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 14:**

14 While Collins agrees to produce records pursuant to Rule 33(d), Collins fails to specify which
15 records. If the served party chooses to respond to an interrogatory by producing business records, the
16 served party must specify, in detail, the records from which the answer may be derived or ascertained
17 and afford the party serving the interrogatory reasonable opportunity to examine, audit, or inspect the
18 record. *See* Fed. R. Civ. P. 33(d); *Mancini v. Ins. Corp.*, 2009 U.S. Dist. LEXIS 51321 (S.D. Cal.
19 2009).

20 As the authorities above reflect, the citation to and production of records as an alternate means
21 for responding to interrogatories is proper so long as the documents produced are the party's "business
22 records" and the description of the records produced in lieu of a response is sufficiently detailed to
23 enable the propounding party to locate them. Here, Collins's citation to and alleged agreement to
24 produce documents does not satisfy these two requirements. The response is insufficient for two
25 reasons. First, it does not direct Tourgeman to any "business records." Second, even assuming these
26 documents are business records, this response lacks the required specificity. Collins must at least
27 provide the titles of the documents or Bates numbers of the documents responsive to this Request.
28

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Interrogatory No. 14.

SPECIAL INTERROGATORY NO. 16:

Please identify the number of letters threatening legal action COLLINS sent in each calendar year from 2005 to the present.

RESPONSE TO SPECIAL INTERROGATORY NO. 16:

Zero.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 16:

Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit against Tourgeman for an alleged debt. Collins also retains Nelson to bring suits against other alleged debtors. Collins erroneously contends that it sent zero letters to debtors threatening legal action. This cannot be. Collins appears to be hiding behind its subsidiary, Paragon Way, even though Collins files collection lawsuits against alleged debtors in its own name.

But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes Collins's position. "The discovery rules require that a corporation furnish such information as is available from the corporation itself or from sources under its control. If the corporation can obtain the information from sources under its control, it may not avoid answering by alleging ignorance." *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding information related to Paragon Way.

Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf and is Collins's subsidiary, this Interrogatory should have accounted for Paragon Way. And, Collins, as the principal corporation, has control and access to Paragon Way's documents. For instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from Paragon Way. Therefore, Collins's response that it sent zero letters is insufficient.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Interrogatory No. 16.

SPECIAL INTERROGATORY NO. 17:

Please describe the position at COLLINS that prepares the affidavit authorizing legal action against an alleged debtor, including but not limited to the position's duties, responsibilities, job requirements, and the number of people who perform this task for COLLINS.

RESPONSE TO SPECIAL INTERROGATORY NO. 17:

Collins did not prepare an affidavit relating to this action.

SUPPLEMENTAL RESPONSE TO SPECIAL INTERROGATORY NO. 17:

No person employed by Defendant prepares any "affidavit authorizing legal action against an alleged debtor." There are no such affidavits and no such position.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 17:

Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit against Tourgeman for an alleged debt. Collins also retains Nelson to bring suits against other alleged debtors. Collins erroneously contends that it does not prepare affidavits authorizing legal action. This cannot be. Collins appears to be hiding behind its subsidiary, Paragon Way, even though Collins files collection lawsuits against alleged debtors in its own name.

But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes Collins's position. "The discovery rules require that a corporation furnish such information as is available from the corporation itself or from sources under its control. If the corporation can obtain the information from sources under its control, it may not avoid answering by alleging ignorance." *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding information related to Paragon Way.

Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf

1 and is Collins's subsidiary, this interrogatory should have accounted for Paragon Way. And, Collins, as
2 the principal corporation, has control and access to Paragon Way's documents. For instance, Collins
3 agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from
4 Paragon Way. Therefore, Collins's response that there are no such affidavits and no such position is
5 insufficient.

6 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
7 response to Interrogatory No. 17.

8 **SPECIAL INTERROGATORY NO. 18:**

9 Please describe the process COLLINS uses to skip trace alleged debtors in the event of a
10 debtor's address or phone number change.

11 **RESPONSE TO SPECIAL INTERROGATORY NO. 18:**

12 Collins does not skip trace debtors.

13 **REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 18:**

14 Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an
15 alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period
16 in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit
17 against Tourgeman for an alleged debt. Collins also retains Nelson to bring suits against other alleged
18 debtors. Collins erroneously contends that it does not skip trace debtors. This cannot be. Collins
19 appears to be hiding behind its subsidiary, Paragon Way, even though Collins files collection lawsuits
20 against alleged debtors in its own name.

21 But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes
22 Collins's position. "The discovery rules require that a corporation furnish such information as is
23 available from the corporation itself or from sources under its control. If the corporation can obtain the
24 information from sources under its control, it may not avoid answering by alleging ignorance."
25 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
26 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
27 information related to Paragon Way.

Further, Tourgeman specifically defined Collins to include “anyone else acting on Collins Financial Services, Inc.’s behalf.” Because Paragon Way was acting to collect debts on Collins’s behalf and is Collins’s subsidiary, this interrogatory should have accounted for Paragon Way. And, Collins, as the principal corporation, has control and access to Paragon Way’s documents. For instance, Collins agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from Paragon Way. Therefore, Collins’s response that it does not skip trace debtors is insufficient.

Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental response to Interrogatory No. 18.

SPECIAL INTERROGATORY NO. 19:

If COLLINS’ response to Plaintiff David Tourgeman’s Requests for Admission (Set One) No. 3 served concurrently with Plaintiff David Tourgeman’s Special Interrogatories is anything other than an unqualified admission, please explain the basis for COLLINS’ denial.

RESPONSE TO SPECIAL INTERROGATORY NO. 19:

Defendant incorporates by reference its objections and response to Request for Admission No. 3. Collins does not communicate with debtors in an attempt to collect from debtors so this Request has been denied.

REASONS TO COMPEL RESPONSE TO SPECIAL INTERROGATORY NO. 19:

Collins sued Tourgeman in San Diego Superior Court under its own name to collect on an alleged debt. In fact, Collins has filed more than 300 cases under its own name during the class period in the San Diego Superior Court alone. (Weaver Dec. ¶14). Collins retained Nelson to bring suit against Tourgeman for an alleged debt. Collins also retains Nelson to bring suits against other alleged debtors. Collins erroneously contends that it does not communicate with debtors. This cannot be. Collins appears to be hiding behind its subsidiary, Paragon Way, even though Collins files collection lawsuits against alleged debtors in its own name.

But Collins cannot use its subsidiary to shield itself from discovery. Case law directly refutes Collins’s position. “The discovery rules require that a corporation furnish such information as is available from the corporation itself or from sources under its control. If the corporation can obtain the information from sources under its control, it may not avoid answering by alleging ignorance.”

1 *Goodrich Corp. v. Emhart Indus.*, 2005 U.S. Dist. LEXIS 17190, *9 (C.D. Cal. 2005). Here, Paragon
2 Way is a subsidiary directly under Collins's control and thus Collins has no basis for withholding
3 information related to Paragon Way.

4 Further, Tourgeman specifically defined Collins to include "anyone else acting on Collins
5 Financial Services, Inc.'s behalf." Because Paragon Way was acting to collect debts on Collins's behalf
6 and is Collins's subsidiary, this interrogatory should have accounted for Paragon Way. And, Collins, as
7 the principal corporation, has control and access to Paragon Way's documents. For instance, Collins
8 agreed in its supplemental response to Interrogatory Nos. 13 and 20 to produce certain documents from
9 Paragon Way. Therefore, Collins's response that it does not communicate with debtors is insufficient.

10 Also, because Rule 33(b)(1) requires a party to answer each interrogatory "fully," it is improper
11 and unresponsive for an answer to an interrogatory to refer to outside material, such as pleadings,
12 depositions, or other interrogatories. 7-33 MOORE'S FEDERAL PRACTICE-CIVIL § 33.103. The
13 reason for this rule is because answers to interrogatories must be in a form suitable for use at trial. See
14 *Davidson v. Goord*, 215 F.R.D. 73, 77 (W.D.N.Y. 2003) (holding that it is insufficient to answer
15 interrogatories by merely referencing allegations of the pleadings because answers must be in a form
16 suitable for use at trial). Collins attempts to incorporate by reference its boilerplate objections to
17 Request for Admission No. 3. This is an incomplete and inappropriate response.

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1 Accordingly, Tourgeman requests that this Court order Collins to provide a supplemental
2 response to Interrogatory No. 19.

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4 Dated: March 5, 2010

JOHNSON BOTTINI, LLP
FRANCIS A. BOTTINI, JR.
BRETT M. WEAVER

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